



0000155581

BEFORE THE ARIZONA CORPORATION COMMISSION

BOB STUMP
Chairman

2014 AUG 26 P 4:35

GARY PIERCE
CommissionerARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

BRENDA BURNS
Commissioner

AUG 26 2014

BOB BURNS
Commissioner

ORIGINAL

DOCKETED BY

SUSAN BITTER SMITH
Commissioner

W-01303A-09-0343

IN THE MATTER OF THE APPLICATION)
 OF ARIZONA-AMERICAN WATER)
 COMPANY, AN ARIZONA)
 CORPORATION, FOR A)
 DETERMINATION OF THE CURRENT)
 FAIR VALUE OF ITS UTILITY PLANT)
 AND PROPERTY AND FOR INCREASES)
 IN ITS RATES AND CHARGES BASED)
 THEREON FOR UTILITY SERVICE BY)
 ITS ANTHEM/AGUA FRIA WASTEWATER)
 DISTRICT, SUN CITY WASTEWATER)
 DISTRICT, AND SUN CITY WEST)
 WASTEWATER DISTRICT)

DOCKET NO. SW-01303A-09-0343

**EPCOR WATER COMPANY'S
 RESPONSE TO ANTHEM
 COMMUNITY COUNCIL'S
 MOTION TO STAY
 PROCEEDINGS**

EPCOR Water Arizona, Inc. ("EWAZ" or "Company") submits this response to Anthem Community Council, Inc.'s ("Anthem") Motion to Stay Proceedings ("Motion").

Anthem's Motion is premised on the mistaken belief that the current proceeding is a new rate case with the resultant need for discovery and testimony on such factually complex issues as rate of return, operating expenses, and rate base. To the contrary, the Arizona Corporation Commission ("Commission") Staff's July 8, 2014 Memorandum and the Commission's subsequent Decision No. 74588 contemplate a very focused, limited proceeding. The revenue requirement, billing determinants and similar information from the prior rate cases¹ (Decision Nos. 72047 and 72337; collectively, the "Rate Decisions")

¹ The Company recognizes that certain provisions of these decisions were amended in other future decisions as well. See, e.g., Decision Nos. 73837, 73230, 73221

1 are left in place. Rather, this proceeding only focuses on the three scenarios ordered by the
2 Commission for amending the wastewater rate design in those Rate Decisions. As a result,
3 the discovery and hearing in this A.R.S. § 40-252 proceeding must be limited to the
4 wastewater rate design and must not expand beyond that scope.

5 Anthem argues that the Rate Decisions require that this proceeding be stayed and
6 the Company immediately proceed with a rate case for all of its districts. A review of
7 those decisions makes clear that the Company could not make a rate case filing at the
8 current time as argued by Anthem. In Decision No. 72047 (Jan. 6, 2011), the
9 Commission approved a rate increase for certain EWAZ water and wastewater districts,
10 including the Anthem/Agua Fria Wastewater District. As part of that decision, the
11 Commission left open the docket to consider de-consolidation of the Anthem/Agua Fria
12 Wastewater District. Following an extensive hearing on the deconsolidation issue, the
13 Commission issued Decision No. 73227 (June 5, 2013), which ordered the de-
14 consolidation of the Anthem/Agua Fria wastewater district into two districts. The
15 Commission ordered that new rates based on this de-consolidation be phased-in over three
16 years, with the final phase beginning on January 1, 2015.

17 It is current Commission practice to require utilities to have at least six months of
18 actual experience with new rates prior to filing its next rate case.² By way of example, in
19 the Company's last rate case for the Agua Fria Water District (a district that would be
20 required for any system-wide consolidation filing of the Company's water districts), the
21 Commission ordered the Company not to file its next case until it had a test year with "at
22 least six months of actual experience with the final phase of rates." *See* Decision No.
23 73145 at 32.³ As such, EWAZ's next rate case for the wastewater districts could not
24 occur until after June 30, 2015, which would be the earliest test year end date (*i.e.*, six

25 _____
26 ² In certain circumstances, Commission Staff has required at least 12 months of actual experience. *See*,
27 *e.g.*, Decision No. 73144 at 39.²

³ The last phase of water rates under Decision No. 73145 went into effect June 1, 2014. As noted above,
that decision contained explicit language requiring a test year with at least six months of actual data. Of
course, it would take substantial time for the Company to prepare its case following that test year.

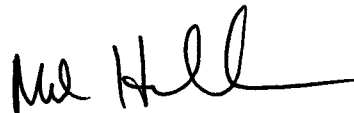
1 months after the commencement of the last phase of the rates ordered in Decision No.
2 73227).

3 As part of Decision No. 73227, the Commission ordered the Company to make its
4 system-wide rate case filing, as ordered by Decision No. 72047, "as soon as possible," so
5 that all affected parties would have a full opportunity to address all issues and make
6 proposals either for or against consolidation or de-consolidation for Commission
7 consideration. This filing must also include full cost of service studies for the districts.
8 Given that the current phase-ins of the rates are still in progress, the Company could not
9 make this filing prior to the end of the June 30, 2015 test year noted above. As well,
10 significant time and hundreds of thousands of dollars will be required to complete the cost
11 of service studies and segregate the internal data necessary to prepare all consolidation and
12 de-consolidation information.

13 For the reasons noted above, EPCOR respectfully requests that the Commission
14 deny Anthem's Motion and that the parties be directed to limit testimony, discovery and
15 legal arguments in this matter to the issues relevant to rate design for the Company's five
16 wastewater districts.

17 RESPECTFULLY SUBMITTED this 26th day of August, 2014.

18 LEWIS ROCA ROTHGERBER LLP

19
20 

21 Thomas H. Campbell
22 Michael T. Hallam
23 201 E. Washington Street, Suite 1200
24 Phoenix, AZ 85004
25 Attorneys for EPCOR Water Arizona, Inc.

26 ORIGINAL and thirteen (13) copies
27 of the foregoing filed
this 26th day of August, 2014, with:

1 The Arizona Corporation Commission
2 Utilities Division – Docket Control
3 1200 W. Washington Street
4 Phoenix, Arizona 85007

5
6 Copy of the foregoing hand-delivered
7 this 26th day of August, 2014, to:

8 Steve Olea
9 Utilities Division
10 Arizona Corporation Commission
11 1200 W. Washington Street
12 Phoenix, Arizona 85007

13 Lyn Farmer
14 Chief Administrative Law Judge, Hearing Division
15 Arizona Corporation Commission
16 1200 W. Washington Street
17 Phoenix, Arizona 85007

18 Janice Alward, Chief Counsel
19 Legal Department
20 Arizona Corporation Commission
21 1200 W. Washington Street
22 Phoenix, Arizona 85007

23 Copy of the foregoing mailed
24 this 26nd day of August, 2014, to:

25 Judith M. Dworkin
26 Roxanne S. Gallagher
27 SACKS TIERNEY PA
4250 N. Drinkwater Blvd., Fourth Floor
Scottsdale, AZ 85251-3693
judith.dworkin@sackstierney.com
Attorney for Anthem Community Council

Lawrence V. Robertson, Jr.
P.O. Box 1448
Tubac, AZ 85646-1448
tubaclawyer@aol.com
Attorney for Anthem Community Council

Daniel W. Pozefsky
Chief Counsel
Residential Utility Consumer Office
1110 West Washington Street
Suite 220
Phoenix, Arizona 85007
dpozefsky@azruco.gov

Jeffrey W. Crockett, Esq.
Brownstein Hyatt Farber Schreck, LLP
One East Washington Street, Suite 2400
Phoenix, Arizona 85004
Attorney for Russell Ranch Homeowners
Association, Inc.

1 Larry Woods
2 President
3 Property Owners and Residents Assoc.
4 13815 E. Camino Del Sol
5 Sun City West, AZ 85375-4409

6 W.R. Hansen
7 12302 W. Swallow Drive
8 Sun City West, AZ 85375

9
10 Andrew M. Miller, Town Attorney
11 Town of Paradise Valley
12 6401 E. Lincoln Drive
13 Paradise Valley, AZ 85253
amiller@paradisevalleyaz.gov

14 Norman D. James
15 Fennemore Craig, P.C.
16 3003 N Central Ave, Suite 2600
17 Phoenix, AZ 85012
njames@fclaw.com
18 Attorney for DMB White Tank, L.L.P.

19 Philip H. Cook
20 10122 W. Signal Butte Circle
21 Sun City, AZ 85373

22 Marshall Magruder
23 P.O. Box 1267
24 Tubac, AZ 85646
mmagruder@earthlink.net

Bradley J. Herrema
Robert J. Saperstein
Brownstein Hyatt Farber Schreck, LLP
21 E. Carrillo St
Santa Barbara, CA 93101
BHerrema@BHFS.com
RSaperstein@BHFS.com

Greg Patterson
Water Utility Association of Arizona
916 W. Adams, Suite 3
Phoenix, AZ 85007
greg@azcpa.org

Desi Howe
Anthem Golf and Country Club
2708 W. Anthem Club Drive
Anthem, AZ 85086

Joan S. Burke
Law Office of Joan S. Burke
1650 N. First Avenue
Phoenix, AZ 85003
Joan@jsburkelaw.com
Attorney for Mashie, L.L.C.

Larry D. Woods
15141 W. Horseman Lane
Sun City West, AZ 85375
larry@lwoods.com

Frederick G. Botha
23024 N. Giovota Drive
Sun City West, AZ 85375

1	Gary Verburg, City Attorney	Michele L. Van Quathem
2	Daniel L Brown, Assistant City Attorney	Ryley Carlock & Applewhite
3	Cynthia Campbell	One N. Central Ave, Suite 1200
4	Office of the City Attorney	Phoenix, AZ 85004
5	200 W. Washington, Suite 1300	
6	Phoenix, AZ 85003	
7	Craig A. Marks	Sun City Grand Community Association
8	Craig A. Marks, PLC	Palm Center
9	10645 N. Tatum Blvd, Suite 200-676	19726 N. Remington Drive
10	Phoenix, AZ 85028	Surprise, AZ 85374
11	Lynn M. Krupnik	Scottsdale Citizens for Sustainable Water
12	Ekmark & Ekmark, LLC	7322 E. Cactus Wren Road
13	6720 N. Scottsdale Rd, Suite 261	Scottsdale, AZ 85250-4526
14	Scottsdale, AZ 85253	
15	George M. Turner	Peter and Rochanee Corpus
16	President, Board of Directors	8425 N. 181 st Drive
17	Russell Ranch Homeowners' Assoc., Inc.	Waddell, AZ 85355
18	PO Box 12560	
19	Glendale, AZ 85318	
20	Kenneth Hewitt	Tammy Ryan
21	18729 North Palermo Court	Andy Terrey
22	Surprise, AZ 85387	City of Phoenix
23		Water Services Department
24		200 W. Washington, Floor 9
25		Phoenix, AZ 85003
26	Mr. Jim Weihman	Chard R. Kaffer
27	The Happy Trails Community Association	Troy Stratmen, Esq.
	17200 West Bell Road	Mack Drucker & Watson, PLC
	Surprise, Arizona 85374	3200 N. Central Ave., Suite 1200
		Phoenix, AZ 85012
	Ms. Sharon Wolcott	Thomas and Laurie Decatur
	20117 North Painted Cove Lane	924 Torridon Court
	Surprise, Arizona 85387	Pickerington, Ohio 43147

1 Mr. Owen Dejanovich
2 Clearwater Farms Three HOA
3 P.O. Box 72
4 Waddell, Arizona 85355

Peggy H. Rahkola
The Arizona Traditions HOA
17221 North Citrus
Surprise, AZ 85374

5 Mr. Stan Mucha
6 The Sun Village Community Association
7 17300 North Sun Village Pkwy
8 Surprise, Arizona 85374

Mr. Nicholas Mascia
The Surprise Farms III Community Assn.
1600 West Broadway Road, Suite 200
Tempe, Arizona 85282

9 Mr. Garry D. Hays
10 The Law Offices of Garry D. Hays, PC
11 1702 East Highland Avenue, Suite 204
12 Phoenix, Arizona 85016

Mr. William B Lipscomb
Kingswood Parke Community Association
14976 West Bottletree Avenue
Surprise, Arizona 85374

13 Mr. Timothy L. Duffy
14 Ms. Cindy J. Duffy
15 19997 North Half Moon Drive
16 Surprise, Arizona 85374

Mr. Kevin Chiariello
Greer Ranch South HOA
16074 West Christy
Surprise, Arizona 85379

17 Dana Rosenbaum
18 Surprise Farms Community Assn., Phase 1A
19 PO Box 25466
20 Tempe, AZ 85285

Mr. Michael D. Bailey
City Attorney
City of Surprise
16000 North Civic Center Plaza
Surprise, Arizona 85374

21 Jerome M. Ellison II
22 Cortessa Community Association
23 PO Box 25466
24 Tempe, AZ 85285

Mr. Mike Albertson
6634 North 176th Avenue
Waddell, Arizona 85355

25 Ms. Jeanne Stockard
26 Northwest Ranch Homeowners Association
27 4742 North 24th Street, Suite 325
Phoenix, AZ 85016

Mr. Brian O'Neal
21373 West Brittle Bush Lane
Buckeye, Arizona 85396

Jared Evenson
Cross River Homeowners Association
1600 West Broadway Road, Suite 200
Tempe, Arizona 85282

Craig and Nancy Plummer
17174 West Saguaro Lane
Surprise, Arizona 85388

1 Mr. Mike Smith
2 Sierra Montana Homeowners Association
3 c/o Rossmar & Graham
4 15396 North 83rd Ave., Bldg. B, Suite 101
5 Peoria, Arizona 85381

William and Erin Parr
18044 West Georgia Court
Litchfield Park, Arizona 85034

5 Mr. Jay Shapiro
6 Mr. Patrick Black
7 Fennemore Craig, P.C.
8 3003 N Central Ave, Suite 2600
9 Phoenix, AZ 85012

Mr. Jim Oravetz
Legacy Parc South Homeowners Assn.
1600 West Broadway Road, Suite 200
Tempe, Arizona 85282

9 Ms. Susan Harr
10 Summerfield at Litchfield Subdivision HOA
11 13201 North 35 Avenue, Suite B-3
12 Phoenix, Arizona 85029

Ms. Jan Garcia
Sycamore Estates Parcel 13 Comm. Assn.
1600 West Broadway Road, Suite 200
Tempe, Arizona 85282

14 Jersey Amerson